King County
Department of Permitting
and Environmental Review
35030 SE Douglas Street, Suite 210
Snoqualmie, WA 98065-9266
www.kingcounty.gov

Drop-Off Cover Sheet

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Drop-Off Cover Sheet

DATE June 24, 2013 **TO THE ATTENTION OF** Jim Chan / Dave Sandstrom
(Permitting STAFF/SECTION)

Return this form and related submittal items to the King County Permitting Service Center. If you have any questions, please call 206-296-6600. This slip MUST accompany all submittals of additional information to the Department of Permitting. SUBMITTALS WILL NOT BE ACCEPTED WITHOUT THIS COMPLETED FORM.

KING COUNTY TRACKING/PERMIT NUMBER L03CU006

Project Name Morningside

Address of Project Vashon WA

ANY QUESTIONS ABOUT THIS ADDITIONAL INFORMATION SHOULD BE DIRECTED TO:

Name Rachel Larson

Firm Name _____ Phone 206-795-0795

Mailing Address 29428 129th Ave SW City, State & Zip Vashon WA 98070

STATE THE SCOPE OF ANY CHANGES OR DEFINE THE ADDITIONAL INFORMATION PROVIDED WITH THIS DOCUMENT:

DOCUMENTS SUBMITTED (LIST ALL DOCUMENTS AND THEIR QUANTITIES):

ITEM	QTY	DESCRIPTION
1	1	Statement of Appeal
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Check out the Permitting Web site at www.kingcounty.gov/ddes

STATEMENT OF APPEAL

JUNE 24, 2013

Decision being appealed:

L03CU006 Conditional Use Permit (CUP)
Report and Decision, dated May 31, 2013

Department, division or office which made the decision:

King County
Department of Permitting and Environmental Review
35030 SE Douglas St., Suite 210
Snoqualmie, WA 98065-9266

Specifically, "Ordered this 31st day of May, 2013" by
Jim Chan, Assistant Director for Permitting,
King County Department of Permitting and Environmental Review

Appellant:

Rachel Larson
29428 129th Ave SW
Vashon, WA 98070

Attorney for the Appellant:

No attorney has been engaged as of this date.

Hand delivered this 24th day of June, 2013, to the King County Department of Permitting and Environmental Review, 35030 SE Douglas St., Snoqualmie, WA, per Attachment A of L03CU006 Conditional Use Permit (CUP) Report and Decision, dated May 31, 2013.

I. INTRODUCTION

I am appealing the L03CU006 Conditional Use Permit (CUP) Report and Decision, dated May 31, 2013, (the "CUP") on the grounds of procedural irregularities associated with this decision as well as substantive errors made in this action/decision. The significance of and harm caused by the procedural irregularities should stand on their own, but I will show why the procedural irregularities have caused and will cause harm. The appropriate remedy to cure the procedural errors is to rescind the CUP and the underlying SEPA decision. Any further consideration of the underlying proposed development project should move forward only with the Applicant and the King County Department of Permitting and Environmental Review ("DPER") following all required procedural requirements, principally, but not exclusively, proper Notice requirements. I will also show that many other errors have been made in this CUP, the harm these errors have caused and the remedy I seek.

II. PROCEDURAL IRREGULARITIES: NOTICE REQUIREMENTS WERE NOT FOLLOWED

Several procedural irregularities have occurred during the CUP process, most particularly with regard to Notice. As a backdrop to this discussion, one needs to keep in mind the particular importance of Notice in a case like this. The Applicant is a well organized private entity with extensive financial resources and professionals ushering the Applicant's site development plan through the system. On the other hand, the community impacted by this potential development consists of disparate individual homeowners with many other demands on their time, attention and limited resources, who therefore hoped to rely on DPER to deny permitting a land use so out of keeping with the character of the area, namely "single family residences on large lots or acreage." [CUP, Findings, B.3.] Thus Notice requirements are not trivial, but critical.

A. NOTICE BOARD

1. Posting of Site: Lack of Notice Board Violates KCC 20.20.060 G.3.a.

Once upon a time, the site of Applicant's proposed development was posted: "As part of the public notice requirements, the applicant posted the site pursuant to King County Code (KCC) 20.20 on April 8, 2003." [CUP, Background]

At some later point, the Notice board was removed. It has been years since there has been a Notice board posted at the proposed development site. It appeared to me and other community residents that the proposed development plan had been abandoned.

The King County Code provides that:

> Notice boards shall be maintained in good condition by the applicant during the notice period through the time of the final county decision on the proposal, including the expiration of any applicable appeal periods, and for decisions that are appealed, through the time of the final resolution of any appeal. [KCC 20.20.060 G.3.a.]

Given that no Notice Board is on the site currently, nor has there been a Notice Board posted on the site in years, and we are still within the appeal period, the Applicant's proposal is in violation of the Notice requirement.

2. Harm and Remedy for Lack of Notice Board

Given that the Notice Board is a legal requirement for consideration of the Applicant's development proposal, the development proposal should be denied, and the CUP rescinded, even without an express showing of harm.

In this case, however, I believe that there is express harm. Whether or not the removal of the Notice Board was calculated to do so, I believe it lulled many of us in the vicinity of the proposed development site to believe that the development proposal had been abandoned. The resurrection of the Applicant's development proposal came as a surprise in 2012 after the Notice Board had been missing for years.

The posting of a Notice Board is clearly intended to alert the public in the vicinity of the site of a proposed development project. The disappearance of and/or lack of the Notice Board gave the impression that the Applicant's development proposal was no longer active, and thereby deprived concerned nearby neighbors of the necessary time and awareness to marshal resources to fully investigate the impact of the plans of this well organized and well funded Applicant, including, but not limited to, hiring experts and legal counsel.

The appropriate remedy is for the CUP to be rescinded and for any potential future development proposal to follow all legally mandated Notice requirements, including but not limited to the posting of the Notice Board.

B. ERRORS RELATING TO THE NOVEMBER 21, 2012 CUP (RESCINDED) IRREPARABLY HARMED THE PUBLIC PROCESS

1. Errors Relating to the November 21, 2012 CUP (Rescinded) and its Aftermath: Confusion

An earlier CUP for the Applicant's proposed development plan was rescinded by DPER after the process was bungled. The manner in which this rescission was

carried out was then also bungled, thereby denying the community surrounding the proposed development site clear and coherent notice of the status of Applicant's proposed development plan for the site.

This is the text of the Rescission dated December 6, 2012:

> The Department of Permitting and Environmental Review hereby rescinds the L03CU006 Conditional Use Permit (CUP) Report and Decision dated November 21, 2012. The Department also hereby rescinds the L03CU006 Notice of Land Use Decision AND Environmental Threshold Determination dated November 21, 2012.
>
> The Department will issue a new L03CU006 CUP Report and Decision and L03CU006 Notice of Land Use Decision after comments received are reviewed and analyzed. The comment period for the SEPA Threshold Determination ends on December 20, 2012 as noted in the CORRECTED Notice of Environmental Threshold Determination dated November 26, 2012.
>
> A revised L03CU006 Notice of Land Use Decision AND Environmental Threshold Determination will detail the 21-day appeal period required for a Type 2 permit application. The appeal procedure and instructions, including appeal deadline dates and fees, will be noted in this revised Notice of Land Use Decision.

Perhaps a seasoned land use attorney would have understood this missive, but I would submit that for most of us it was utterly confusing, and widely misunderstood. Here are just a few of the problems with this December 6, 2012 mailing from DPER:

a. No reason was given for the Rescission.

b. This was the first communiqué on this proposed site development that our household received (and I imagine we are not the only ones in that situation). Thus I had not seen the November 21, 2012 CUP nor did I know that such a CUP existed. Likewise, I had not seen the November 21, 2012 Environmental Threshold Determination nor know that one existed. Nor did our household receive a SEPA Threshold Determination nor know of its significance with respect to and Land Use Decision by DPER.

e. By referencing the *rescission* of the "Environmental Threshold Determination" in the first paragraph, then in the second paragraph referring to the "SEPA Threshold Determination" and the "CORRECTED Notice of Environmental Threshold Determination," and then again the upcoming revised "Environmental Threshold Determination" in the third paragraph, this notice left

the impression that all decisions were rescinded and new decisions (with new appeal procedures) would be issued.

My later understanding of what transpired was that DPER issued the November 21, 2012 CUP at the same time as the SEPA Threshold Determination. DPER was later forced to Rescind the CUP because the law does not permit DPER to issue a CUP at the same time as the SEPA. [See WAC 197-110340] Meanwhile, no appeals to the SEPA decision were filed, and whether that is because (a) Notice of the SEPA decision was inadequate; (b) the appeal period fell between Thanksgiving and Christmas at a time when many folks are notoriously distracted by busy schedules; (c) the text of the December 6, 2012 Rescission was utterly confusing and led many to believe that all relevant decisions were rescinded and they should await new decisions; or (d) many or most people receiving the December 6, 2012 Rescission had never received any other notices and therefore did not have the SEPA determination in hand to respond to, I guess we will never know.

2. Remedy for Notice Errors Relating to the November 21, 2012 CUP (Rescinded) and its Aftermath

By not disclosing or acknowledging the very reason for the decision to rescind the November 21, 2012 CUP, and by further confusing what decisions were rescinded and which were not, the "Rescinded" letter dated December 6, 2012, did not give fair notice as to what actions were being taken and thereby deprived potentially interested parties of fair notice of their right to appeal the SEPA decision (which much to the surprise of many, was not rescinded).

A fair remedy would be to rescind the SEPA determination and proceed again with proper and *clear* notice of the right to appeal. This would necessarily rescind the May 31, 2013 CUP, as it is contingent on the SEPA determination. If the Applicant chooses to proceed, DPER and the Applicant must follow all notice requirements and all such notices must be *clear*.

C. A Pattern of Confusing Notice and Instructions

Keeping in mind that those affected by this proposed development plan are typically not land use lawyers (indeed I do not know if any are), it is troubling that there seems to be a pattern of confusing and contradictory information regarding Applicant's proposed development plan.

In addition to the problems discussed above, the DPER seems to be confused as to what the appeal period should be for a Type 2 permit application. The December 6, 2012 Rescission promises, in the third paragraph, that, "A revised L03CU006 Notice of Land Use Decision AND Environmental Threshold Determination will detail the 21-day appeal period required for a Type 2 permit

application." Yet the April 2, 2013 Notice of Community Meeting states that, "A Notice of Decision for the Conditional Use Permit Report and Decision will be issued upon completion of that review. This decision will detail the 14-day appeal period required for a 'Type 2' permit application." Well, should it be 14 or 21 and how is a layperson to know?

The only adequate relief for the current situation is to rescind the decisions made without clear notice and clear information and, going forward, properly and clearly follow all legal notice requirements and procedures.

III. FACTUAL ERRORS IN THE CUP

A. CUP, FINDINGS, B. Existing Conditions

1. Paragraph 2: States:

> Upon donation to the LDS Church by the previous owner the site has been utilized by the church for various functions and activities. Currently, use of the site by the Church has been suspended pending the outcome of the subject CUP application. [CUP, FINDINGS, B.2.]

There are two significant problems with this statement. First, the phrase "utilized by the church for various functions and activities," grossly understates past utilization of the site in question. The site has an extensive history of unpermitted use in contravention of zoning and land use codes. Second, use of the site has *not* "been suspended pending the outcome of the subject CUP application," as claimed.

a. The site still hosts unpermitted use.

As late as the Spring of 2013, I personally heard and then witnessed a large group of youth at play on the field near the building on Parcel 0121029138 that houses an indoor basketball court. They were seemingly engaged in some sort of organized activity, if the matching shirts were any indication, and certainly appeared to be on site with the permission of the Applicant (rather than as trespassers). This was some time after the public meeting held on April 17, 2013, and certainly during the time that use of the site is claimed to have been suspended. The building I refer to is the structure marked E11 and designated "Feeding Station" on the Apex Engineering Conditional Use Permit Revised Site Plan, but it actually houses an indoor basketball court. (I do not know why the basketball court is being called a "Feeding Station.")

Just how much other use of the site there has been would need to be ascertained through a discovery process, but in any case, use of the site has clearly not been suspended.

b. Extensive history of unpermitted use.

The phrase "utilized by the church for various functions and activities" is understated and misleading. There has been extensive use of this site since the transfer of the property to the church in 1997, and the site is still prominently featured on an LDS website for Northwest Area Recreation Properties: http://bigo.byu.edu:8085/MRP-NANW/index.jsp

At various times over the years the church has most certainly hosted "camp" activities. I have heard large group gatherings on the site, as sound from the site carries over a wide area. Campsites were created in the wooded area in the northern part of the site and fire rings were installed.

The site also hosted a college program. A Ricks College program called Quest was hosted and housed on the site sometime around 1999-2001. The dormitory buildings on Parcel 0121029139 housed the Ricks College students.

> Since 1999, Continuing Education has been operating a satellite campus on Vashon Island on a 110-acre property donated to The Church of Jesus Christ of Latter-day Saints. The Morning Side Ranch has been converted to a successful educational facility complete with classrooms, dormitories, and a cafeteria. During the fall and winter semesters, the facilities are used for the Quest program, which focuses on general education requirements for incoming freshman students. In the summer, the center becomes the location for stake and ward youth conferences. http://www.byui.edu/upward/archive/acumen

> The main house commands a breathtaking view of the Sound and looks toward 14,411-foot Mount Rainier, which appears to rise just behind the suburbs of Tacoma. Near the house is a five-car garage and an enclosed bath house. The 110-acre property was donated to the LDS Church in 1997. It is administered by Church leaders in the area. In addition to the gift of property, the donors, recognizing a need, built two dormitory buildings to house about 60 students on one end of the property. The women's dormitory building includes a classroom that doubles as a dining hall with a kitchen attached. The men's dormitory, in a separate building, is only a few feet away. The program's director lives in a separate house on the property. A female assistant lives in one of the rooms of the women's dormitory.

> The future looks bright for the Vashon facility. During the summer months it is used by stakes in the area for camps and youth conferences. Barns, because of their immaculate condition, are converted to makeshift sleeping areas. For the first time next winter, Ricks will also offer the

Quest program on Vashon for the Winter Semester 2001.
http://www.byui.edu/upward/archive/summit/program

The LDS website for The Morningside property is still active.
http://bigo.byu.edu:8085/MRP-NANW/index.jsp

Here is the description from that website:

> Morningside Farm is 105 acres of woods on Vashon Island. Just a short ferry ride from three points in the Puget Sound area, it is a peaceful place to get away from busy life. Bridges, a Gazebo and benches are here for reflection or viewing deer feeding in the pastures.
>
> Camping areas are available in the meadows and in the woods. There are 2 dormitories on site that were used by B.Y.U. Idaho and are available year-round to church and family groups. The manor, complete with kitchen, sleeps 22; it includes an indoor pool. An apartment, which sleeps 6, is also available, with the Manor or separately. Many points offer views of the Sound, Quartermaster Bay and Mt. Rainier. Another gem of our property is the beach-front.
>
> One meadow contains a large playground and there are many large grassy areas for volleyball, soccer, baseball, football, Frisbee, and croquet(equipment available). There are horseshoe pits in two areas and one of the indoor barns has a basketball half court. The huge indoor arena can be used for picnics, volleyball and many activities in out of the weather.
> http://bigo.byu.edu:8085/MRP-NANW/Camps.jsp?menuSelect=about&campSelect=5

The dormitory buildings are described as follows:

> A two-building facility that was used to house Ricks students summer classes. The main dorm has a large kitchen and dining room that seats 60 people. Tables and chairs fold up so dining area can be used for a dance or activities. There are 8 bedrooms, 4 with their own bathroom. The others use the main bathroom. 6 of the bedrooms sleep 3-4 people. The 2 larger bedrooms sleep up to 8.
>
> The smaller dorm has 6 bedrooms. Each bedroom has its own bathroom and sleeps up to 4 people. Both dorms have a washer and dryer to launder the bedding and towels when rented. Outside there are six picnic tables on cement pads and horseshoe boxes.

http://bigo.byu.edu:8085/MRP-NANW/Camps.jsp?menuSelect=campgrounds&campSelect=5&groundSelect=275

These buildings are consistently described as "dormitories" on the LDS websites but have been renamed "Upper Family Lodge" and "Lower Family Lodge" (buildings E14 and E15) on the Apex Engineering Conditional Use Permit Revised Site Plan. Dormitories are only allowed on RA zoned property "as accessory to a school, college, university or church." KCC 21A.08.030 B. 5. I suspect this is why the buildings are being re-designated as "lodges." I could not find "lodges" referenced in the King County Code. I do not know if the dormitory buildings were built with a proper permit or why dormitory buildings would be permitted to be built on a RA10SO parcel.

In addition to the dormitory buildings, there are "apartments" on the site. The Morningside website describes an "Apartment under Manor" as a "lovely 3 bedroom, one bath apartment. There is a separate entrance, a small kitchen and living area."
http://bigo.byu.edu:8085/MRP-NANW/Camps.jsp?menuSelect=campgrounds&campSelect=5&groundSelect=276

The Manor House itself is described as "A large hacienda style manor with 4 bedrooms, 4 bathrooms, familyroom, large kitchen, diningroom, lovely sunken livingroom. It can sleep up to 22 people."
http://bigo.byu.edu:8085/MRP-NANW/Camps.jsp?menuSelect=campgrounds&campSelect=5&groundSelect=274

Outdoor facilities developed on the site include:

> **Playground and play equipment.** Large play ground [*sic*] with swings, slides, sandbox and 3 barrel swings. There are horseshoe pits and equippment [*sic*] for just about any sport that can be checked out at the office.
>
> **Fire pit amphitheater.** When the fire status allows, there is a large pit to gather around and roast hotdogs or marshmellows [*sic*] and sing and laugh.
>
> **Circle the Wagons Area.** A large area, ideal for races or other games "in the round!"
>
> **Swimming pool.** Large, indoor, swimming pool can be rented for your group.

Arena. Huge indoor arena that can be used for volleyball, dancing, barbeques, etc for large or small groups out of the weather.

Gameroom. Large room by the garages that feature foos ball, air hockey, ping pong and a pool table. An adult will need to supervise children or the whole group can enjoy playing together.

http://bigo.byu.edu:8085/MRP-NANW/Camps.jsp?menuSelect=facilities&campSelect=5

There has been extensive site development of the Morningside property for the purpose of hosting large, loud group activities, all seemingly without the permission required to do so; and indeed large, loud group activities have been hosted throughout the years without the permission required to do so. Thus to merely say that the property has been "utilized by the church for various functions and activities" is to mislead, and does not adequately reflect the extensive usage of the property and the disregard for permission required to use the property in this way.

The CUP suggests that a point in Applicant's favor is that, "The revised proposal intends to utilize the existing structures on the site with limited new structures...." [CUP, page 1, Proposal paragraph] Given that the existing development was not always constructed with proper permits, this should not be a point in the Applicant's favor. The Applicant has a demonstrated history of not coloring within the lines, and it is entirely foreseeable that any usage of the proposed development site not expressly forbidden by the CUP may be engaged in if the proposed development plan is allowed to move forward.

2. Paragraph 4 states that: "Existing native vegetation and landscaping will be retained on the site." [CUP, FINDINGS, B. EXISTING CONDITIONS, ¶ 4]

While it is undoubtedly true that some "Existing native vegetation and landscaping will be retained," this is misleading. There will be significant landscaping and earth movement. Soils in great volume will be moved and concentrated in a containment area. Roads will be built off of 131st Ave SW and 129th Ave SW (the future "emergency access"), drainfields will be constructed, a water tower will be built, etc. In short, significant landscaping will be undertaken to accomplish the Applicant's proposed site development.

3. Paragraph 6 Lacks Specificity and Clarity with Respect to Road Access to the Morningside Site. [CUP, FINDINGS, B. EXISTING CONDITIONS, ¶ 6]

129th Ave SW is the existing unpaved, single lane, private road accessing the proposed development site. 129th Ave SW also serves five other households

and at least two other undeveloped properties. For these other households, 129th Ave SW is the only ingress and egress. Thus the use of 129th Ave SW is critical and cannot be glossed over.

First, the CUP "Findings" paragraph on "Access" needs to be clarified. The last sentence of that paragraph is not a proper sentence, and I would like clarification.

> Currently, access to the site occurs principally via 129th Ave SW along the southern edge of the site. In order to lessen impacts to nearby residential properties the 129th Ave SW access should be modified and designed to be a secondary emergency access only the revised plan the revised site plan [*sic*]. [CUP, FINDINGS, B. EXISTING CONDITIONS, ¶ 6]

What does this mean? Is the current gate and access by the existing Gate House to be closed off? Is the current access via 129th Ave SW to be designated the "secondary emergency access"? Will both the existing gate at the current Gate House and the new "Entry Gate" yet to be constructed off of 129th Ave SW be "emergency access only." How would "emergency access only" be enforced? Is a new "Entry Gate" to be constructed, a new road built, and this new road serve as the "secondary emergency access"? Keep in mind that a new access road across this southern, lightly treed area of the site would have to be a road sufficient to carry emergency vehicles if it is to be an "emergency access road." This is yet another large construction project, as there is no road (or gate) currently at this location.

It is problematic that the CUP does not distinguish between the existing access and the road shown on the Apex Site Plan that is not currently in existence. "[T]he 129th Ave SW access" will actually describe two roads, should construction go through on the road shown on the Apex Site Plan traveling north from the spot marked "Entry Gate." Is the Applicant's development plan then for two "secondary emergency access" roads, one being the entire length of 129th Ave SW (i.e., the current access) and the second being one that would still need to be built (and in any case would still require use of the first section of 129th Ave SW)?

Second, the "DECISION" section of the CUP does not provide any more clarification. Paragraph 5 merely states:

> Access to the site off of 129th Ave SW shall be designated and designed as a secondary, emergency access only. Principle [*sic*] access shall be from 131st Ave SW only. [CUP, DECISION, ¶ 5]

This does not make it clear that the Apex Site Plan is showing yet another access road from 129th Ave SW. It does not address the dual gates (the existing entry gate as well as the "Entry Gate" drawn on the Apex Site Plan but not currently in existence).

Third, the Apex Site Plan does not make it clear that the road traveling North from the proposed new "Entry Gate" has yet to be built, and that the use of such a road would still require use of the first section of 129th Ave SW as well as the neighborhood dead end street SW 297th Way.

Currently, the facts on the ground are that entry to the Morningside site is by way of SW 297th Way (a dead end, chip seal street accessing single family homes), then turning onto 129th Ave SW (an uphill, single lane, private gravel road), taking a blind 90 degree right turn at the top of the hill, proceeding East along the southern boundary of the site, then a 90 degree left turn North past four driveways before arriving at the Morningside gate.

If another "Entry Gate" and road are built as shown on the Apex Site Plan, this new access road would still need to use the neighborhood street SW 297th Way (a dead end chip seal street accessing single family homes), then turn onto 129th Ave SW (an uphill, single lane, private gravel road with a blind 90 degree right turn at the top), taking said blind 90 degree right turn, then taking a 90 degree left turn through an "Entry Gate." Will this "Entry Gate" be closed? Will vehicles be able to keep 129th Ave SW clear while operating this gate? Will modifications need to be made to this first section of 129th Ave SW?

All in all, the CUP and the proposed development plan gloss over the existing facts on the ground and the extent of development that even this proposed emergency access would require. Glossing over the significant development that has already occurred (and which is contrary to land use and zoning codes), as well as downplaying the significant construction that would still need to occur to realize Applicant's proposed site development plan all serve to minimize the substantial impact that the Applicant's proposal would have on the surrounding residential neighborhood. The harm here is that a proper decision cannot be reached, nor a fully informed public process had, without full understanding and clarification of the circumstances and conditions. The full impact and harm to the neighboring properties will only be fully understood when all these points are clarified.

IV. The Requirements for a Conditional Use Permit Have Not Been Met

A. Incompatible With Character of the Neighboring Properties

The proposed development plan is not compatible with the character of the neighboring area consisting of single family residences, and as such does not meet the fundamental requirement for a conditional use permit. "A conditional use permit shall be granted ... only if the applicant demonstrates that ... [t]he conditional use is designed in a manner which is compatible with the character ... of ... existing ... development in the vicinity of the subject property." [KCC 21A.44.040.A.] As noted in the CUP, "Neighboring properties in the vicinity are typically developed with single family residences on large lots or acreage."

[CUP, FINDINGS, ¶ B.3.] The CUP merely states without justification that the proposed development plan is "compatible with the character ... of existing, or potential, rural residential uses in the vicinity of the subject property." [CUP, CONCLUSIONS, ¶ 1]

Past usage of the property as a large group camp has shown that the "tree and vegetative cover" does not, in fact, "buffer the camp operations from adjoining and nearby properties." The neighborhood in question is characteristically quiet. The din of traffic and urban density does not exist here. The sound of large group activity, even without amplified sound, stands out and can be heard at a great distance. Such sound is qualitatively and quantitatively different from and out of character with the rural single family homes in the vicinity of the property. For the CUP to go so far as to allow this "camp" the use of "amplified sound equipment ... between 8:30 a.m. and 8:30 p.m.," is utterly baffling. [CUP, DECISION, ¶ 7] 234 people on the site will already be louder than any residential use would be expected to be, particularly given that the primary activity seems to be a youth camp. Amplified sound will only exacerbate the degree to which this usage is out of character with the "vicinity of the subject property."

The harm here is clearly a noise level so out of keeping with the character of the surrounding residential area that it violates the conditions necessary for granting a CUP and disturbs the residents' quiet enjoyment of their properties. The remedy, at an absolute minimum, would be for the CUP to prohibit amplified sound entirely, and curtail all large group gatherings, particularly out of doors.

The proposed development plan is not being sited at this location to serve the neighboring community. Where the King County Comprehensive Plan (KCCP) discusses non-residential uses in a Rural Area, it says:

> Although low-density residential development, farming and forestry are the primary uses in the Rural Area, some compatible public and private uses are appropriate and contribute to rural character. Compatible uses might include small, neighborhood churches, feed and grain stores, produce stands, forest product sales and home occupations such as woodcrafters, small day care facilities or veterinary services. In addition, it may be necessary to locate some public facilities in the Rural Area, such as utility installations that serve rural homes. Any allowed nonresidential uses should be designed to blend with rural residential development and resource uses. [KCCP Chapter 3.III.D.]

Note the emphasis on small entities that serve the neighborhood in which they are sited. In contrast, Applicant's proposed site development at issue here is a large undertaking that would involve the influx of hundreds of people from outside the neighborhood and require extensive infrastructure to house and accommodate these visitors. Thus the proposed development would negatively

impact the host neighborhood, rather than providing beneficial services to the host neighborhood. Applicant's proposed development is the plan of a private organization to provide its services to its members for the benefit of its members. Any overlap between individuals who may attend the "private religious, recreational facility" and individuals from the neighboring community would be entirely incidental and coincidental. The Applicant is *not* proposing to serve or support the needs of the host neighborhood. The Applicant is *not* proposing to conveniently locate services for nearby residents. The harm to the neighboring community from this impact should be remedied by rescinding the CUP. The Applicant's proposed development plan is not compatible with character of the neighboring properties.

B. Few of Applicant's Proposed Uses Require Location in a Rural Area

In order to show compatibility with the KCCP, the Applicant states, in its Environmental Checklist documentation, that, "The intent of the recreational program for the Church of Jesus Christ of Latter Day Saints is to provide outdoor rural recreational opportunities for youth and families. Therefore the location of the camp does require a rural area." The problem with this argument is that "rural recreational opportunity" is only one small part of the stated intent of the project, yet it is being used as the point of the wedge to justify a much larger development plan.

While outdoor camping and hiking do suggest the need for a rural area, the CUP would allow for all kinds of activity not requiring a rural area, including but not limited to large group gatherings and amplified sound – activities which not only do not *require* a rural area, but in fact are out of step with the character of the neighboring rural residential area.

C. The CUP is too expansive:
Duration of Use is Unlimited, Siting areas of "campers" is expansive, and
The number and type of vehicles is unlimited

The CUP does not place limits on the number of days per year which the site can be in operation as a "camp." Under the CUP, 234 people could be present on this site 365 days per year. Indeed, the CUP, by incorporating the language of Applicant's July 27, 2012 letter (see CUP, Decision, paragraph 2) suggests that it is even possible that 234 only limits the number of overnight guests. "At full capacity the site may host up to 234 people." [CUP, Attachment D, p. 2] What is the meaning of "host" in this context, and could we have a scenario where 234 people were "hosted" on the site but many more were visiting in a day use capacity? The CUP allows for this scenario.

Also in response to the number and location of campers, the Applicant stated that while "Camping activities will typically be restricted to the Rustic Camp areas. Use of the open field south of the Rustic Camp areas is expected." [CUP,

Attachment D, p. 2] This means that camping areas will not be buffered from neighboring properties for sound or visibility.

Furthermore, nothing in the CUP limits the number of vehicles on site, nor the number of Recreational Vehicles on site. The CUP does not disallow an unlimited number of Recreational Vehicles to be on site, so long as the number of people hosted on site does not exceed 234. Mere assurances that this is not the Applicant's intended use are not sufficient to prohibit such use in the future if this development proposal is allowed to come to fruition.

The harm here, of course is that that the negative impact on the neighboring rural, residential community would be substantial. Noise impact, visual impact, and traffic impact are all at issue here. It is possible within the bounds of this CUP to have motorhomes visible in the open area south of the "Rustic Camp." At a minimum, the decision of the CUP should be more narrowly drawn to impose strict limits on the number of days the site can be in operation, the maximum population, day use and otherwise, and the number and types of vehicles allowed to be present on the property. A more just remedy would be to rescind the CUP on all of the grounds enumerated and explained in this Appeal.

D. The CUP Neither Addresses Nor Limits The Presence Of Livestock And Animals, but Allows for the Possibility Without Discussion.

The Applicant's letter of July 27, 2012 introduces livestock and horses into this scenario, seemingly out of the blue:

> The Indoor Riding Arena will be used for storage of large equipment, picnic tables, and horse training. The facility may be used for day-use activities such as observing livestock perform or a place for activities if the weather is inclement. [CUP, Attachment D, p.2, ¶ 6]

I have not found any other reference to horses, livestock or other animals, but the CUP, by incorporating this document, now permits livestock performances and horse training. Where will these animals be housed, grazed, watered, and generally cared for? How will they be transported? All other information on this project seems to point to previous horse farm infrastructure being converted to "camp" use. The SEPA decision does not seem to have addressed the animal presence in any way.

The DPER does not appear to have expressly addressed or taken notice of this issue. The livestock and animal issue, having never been allowed public comment, and not having been addressed as an environmental issue, should be expressly disallowed on site. If the Applicant wishes to have animals on site, this issue should be fully vetted, not snuck into the CUP without due consideration.

V. Further Harm to Neighboring Properties

A. Water quantity:

It concerns me that only hydrogeologists hired by the Applicant have been heard on this matter. Without impugning the integrity of these professionals, it would be disingenuous to suggest that the Applicant's consultants are disinterested third parties. It was particularly concerning when the Applicant's own panel acknowledged at the public hearing (April 17, 2013) that causality would be difficult if not impossible to prove if existing wells were impacted by the Applicant's proposed site development, either in water quality or quantity. If the Applicant turns out to be wrong with respect to either their hydrogeologic claims, or their soils engineering claims, and existing water rights are impacted, many households could be without adequate water and without the means to prove the source of the problem. The remedy, if this proposed development does go forward, would be for the CUP to instruct the Applicant to cease operations if it does turn out that existing water rights are impacted, and to make amends for the harm caused, even without an express showing of causality.

B. Water quality and soil containment:

Despite the Applicant's expert witnesses at the public hearing (April 17, 2013) attempting to assure us to the contrary, it is deeply concerning that the area proposed for containing the contaminated soils is within 130 feet from our well – a well that has conveniently been left off of the Applicant's maps even though our pump house can be seen from 129th Ave SW and from the Applicant's property. If the Applicant turns out to be wrong, and this containment cell does contaminate our water, our property would be uninhabitable. Thus the harm is patently obvious, and the remedy is to take the contaminated soil elsewhere – somewhere where it can do no harm to anyone's water supply.

The Notice deficiencies addressed earlier in this Appeal are relevant again here. Because the households and water associations potentially impacted by the Applicant's proposed water usage and soil containment plan would need to pool their resources to hire their own water and soils experts, the public notice process in these matters is crucial. The lack of public notice is a fatal flaw in this process. The only just remedy is to overturn the CUP on procedural grounds and insist on proper process for any future actions by Applicant and DPER.

A bare minimum remedy would be to hire a neutral expert to develop baseline well tests for all properties within a potentially affected zone at Applicant's expense. This could be done for both water quality and quantity. Future tests would show whether existing wells are harmed, even where express causality could not be absolutely proven. The Applicant would then be required to cure the harm.

C. Traffic on 131st Ave. SW

131st Ave. SW is a narrow two lane road with limited visibility due to curves and vegetation. It lacks adequate shoulders for pedestrian use, especially when the tall grasses on the unpaved shoulders are left unmowed (which is frequent and chronic). It is used anyway by walkers, runners, joggers with baby strollers and cyclists. Courteous vehicles attempting to give a wide berth to non-motorized roadway users tend to utilize the oncoming lane. This is only possible because it is currently a lightly-traveled rural road. A significant increase in traffic caused by the influx of 234 people "hosted" on the site (and an unknown possibility of greater numbers simply visiting by day), whether by bus, motor home, private vehicle, or vanpool, would have a detrimental impact on the health and safety of the neighborhood. Limiting the majority of the traffic to "off-peak" hours would not remedy the situation, as much of the non-vehicular use of 131st Ave SW also tends to occur during the "off-peak" hours when said walkers, runners, etc., utilize the roadway to avoid vehicular traffic. The best remedy would be to disallow such a large proposed development on a site situated in a residential neighborhood with limited roads for ingress, egress and recreation.

VI. Conclusion

For all of the procedural, policy and factual reasons argued above, the CUP should be rescinded. The environmental threshold determination should also be rescinded. If the Applicant wishes to proceed with a proposed site development plan, going forward, all Notice requirements should be followed, allowing a full airing of the issues. The compatibility of the Applicant's desired enterprise with the character of the quiet, rural residential neighborhood in which the site is situated needs to be fully aired. Any CUP resulting from this process should tightly define and stringently curtail future usage of the site so as not to allow for an expansive and unanticipated interpretation of the CUP.